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**OFFICE OF PETITIONS**

In re Application of  
Robert LUTZKER  
Application No. 09/835,861  
Filed 06 April 2001  
Attorney Docket No.: NONE

DECISION ON  
PETITION  
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 20 July 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 21 December 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 22 March 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response under 37 CFR 1.111, and (2) the petition fee for a small entity have been received. The statement of unintentional delay presented in the petition does not comply with the current rule. Effective 01 December 1997, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented has been accepted and interpreted as meaning that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect. Accordingly, the reply to the Office action of 21 December 2004 is accepted as

having been unintentionally delayed.

The matter is being referred to Technology Center Art Unit 1764.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.



Wan Laymon  
Petitions Examiner  
Office of Petitions

NNH/WL:hn